

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

JEFFERY EDWARD HAVIG

Applicant for Registered Nurse License

Respondent

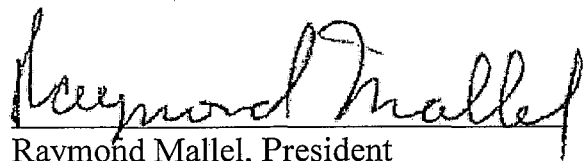
Case No. 2013 -17

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on March 4, 2013.

IT IS SO ORDERED February 2, 2013.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
Against:

12 **JEFFERY EDWARD HAVIG**
13 1134 W. 8th Street
14 San Bernardino, CA 92411

15 Applicant for Registered Nurse

16 Respondent.

Case No. 2013-17

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

[Bus. & Prof. Code § 495]

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
22 Registered Nursing. She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Kevin J. Rigley,
24 Deputy Attorney General.

25 2. Respondent Jeffery Edward Havig (Respondent) is represented in this proceeding by
26 attorney Samuel E. Spital, Esq., whose address is: Spital & Associates, 8880 Rio San Diego Dr.,
27 Ste 800, San Diego, CA 92108.

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3. On or about June 20, 2011, Respondent filed an Application for Licensure by Examination dated June 17, 2011 with the Board of Registered Nursing. The Board denied Respondent's application on October 20, 2011. Respondent timely filed his request for an appeal hearing.

JURISDICTION

4. Statement of Issues No. 2013-17 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on July 24, 2012. A copy of Statement of Issues No. 2013-17 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 2013-17. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2013-17.

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1 9. Respondent agrees that his Application for Registered Nurse License is subject to
2 denial and he agrees to be bound by the Board's imposition of discipline as set forth in the
3 Disciplinary Order below.

4 CIRCUMSTANCES IN MITIGATION

5 10. Respondent is admitting responsibility at an early stage in the proceedings.
6 Respondent has submitted a mitigation brief with supporting declarations and exhibits, which the
7 Board has taken into consideration.

8 RESERVATION

9 11. The admissions made by Respondent herein are only for the purposes of this
10 proceeding, or any other proceeding in which the BRN or other professional licensing agency is
11 involved, and shall not be admissible in any other civil, or criminal proceeding.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Board of Registered Nursing.
14 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
15 Registered Nursing may communicate directly with the Board regarding this stipulation and
16 settlement, without notice to or participation by Respondent or his counsel. By signing the
17 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
24 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
25 effect as the originals.

26 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**


8 IT IS HEREBY ORDERED THAT the application of Respondent for licensure is hereby
9 granted. Upon successful completion of the licensure examination and all other licensing
10 requirements, a Registered Nurse License shall be issued to Respondent. Immediately after
11 issuance, the Registered Nurse License issued to Respondent shall, by way of letter from the
12 Board's Executive Officer, be publicly reprovod. The letter shall be in the same form as the letter
13 attached as Exhibit B to this stipulation.

14 In consideration for entering into this stipulated agreement (Agreement), Respondent
15 hereby waives any right to challenge the legal effect of this Agreement, by way of petition for
16 reconsideration, petition for writ of mandamus, appeal, or otherwise, and further waives any other
17 legal claim or defense, which he may have asserted, including, but not limited to, any time based
18 claim such as laches, in the event it is necessary to calendar an administrative hearing based on
19 any part of or all of Statement of Issues No. 2013-17.

20 **ACCEPTANCE**

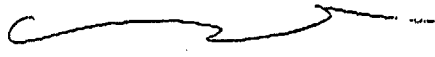
21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
22 discussed it with my attorney, Samuel E. Spital, Esq. I understand the stipulation and the effect it
23 will have on my Applicant for Registered Nurse. I enter into this Stipulated Settlement and
24 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
25 Decision and Order of the Board of Registered Nursing.

26
27 DATED: 9/18/12


JEFFERY EDWARD HAVIG
Respondent

1 I have read and fully discussed with Respondent Jeffery Edward Havig the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4
5 DATED: 9/19/12


6 Samuel E. Spital, Esq.
7 Attorney for Respondent

8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
10 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
11 Affairs.

12
13 Dated: 9/19/12

Respectfully submitted,

14 KAMALA D. HARRIS
15 Attorney General of California
16 GREGORY J. SALUTE
17 Supervising Deputy Attorney General


18 KEVIN J. RIGLEY
19 Deputy Attorney General
20 Attorneys for Complainant

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22 LA2012602197
23 Stipulation.rtf
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Exhibit A

Statement of Issues No. 2013-17

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

Case No. 2013-17

13 **JEFFERY EDWARD HAVIG**

STATEMENT OF ISSUES

14 Registered Nurse License Application

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
19 her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs (Board).

21 2. On or about June 20, 2011, the Board received an application for a Registered Nurse
22 License (application) from Jeffery Edward Havig (Respondent). On or about June 17, 2011,
23 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
24 representations in the application. The Board denied the application on October 20, 2011.

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1 **REGULATORY PROVISIONS**

2 7. California Code of Regulations, title 16, section 1444 states:

3 "A conviction or act shall be considered to be substantially related to the qualifications,
4 functions or duties of a registered nurse if to a substantial degree it evidences the present or
5 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
6 safety, or welfare. . ."

7 **CAUSE FOR DENIAL OF APPLICATION**

8 **(Discipline by Another State Agency)**

9 8. Respondent's application is subject to denial under sections 480, subdivision (a)(3),
10 2736 and 2761, subdivision (a)(4), in conjunction with California Code of Regulations, title 16,
11 section 1444, in that on or about April 6, 2009, Respondent was disciplined by the Board of
12 Vocational Nursing & Psychiatric Technicians, which constitutes substantially related
13 unprofessional conduct warranting denial of licensure. The circumstances are as follows:

14 a. On or about March 18, 2009, the Board of Vocational Nursing and Psychiatric
15 Technicians issued Vocational Nurse License No. VN 240811 to Respondent, with an expiration
16 date of November 30, 2010.

17 b. On or about April 6, 2009, the Board of Vocational Nursing and Psychiatric
18 Technicians issued administrative Citation No. 09-0065-L to Respondent with a \$250.00 fine. On
19 or about April 15, 2009, Respondent complied with the citation and it is now final; a copy of
20 which is incorporated herein in full. The citation alleged violations of section 2878(e)
21 [misstatement on license application], and states, in part:

22 "When applying for licensure as a vocational nurse, you signed a completed Record of
23 Conviction form, responding 'yes' to the question "have you ever been "convicted" of any
24 offense, including traffic violations?" You attested to the accuracy and truthfulness of this
25 information, signing the document under penalty of perjury.

26 "You reported the following on your Record of Conviction form:

- 27 • April 20, 1997 arrest for disorderly conduct (Court documents indicate your
28 conviction on July 31, 1997 for disorderly conduct as a result of the arrest.)

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- May 25, 1998 arrest for rioting (Court documents indicate your conviction on December 14, 1998 for rioting as a result of the arrest.)
- June 9, 1998 arrest for possession of marijuana (Court documents indicate you were granted deferred entry of judgment and the case was dismissed on December 13, 1999.
- August 15, 1999 arrest for theft/possession of stolen property (Documents obtained by the Board indicate the date of arrest as June 1999. Court documents indicate your conviction on January 18, 2000 for third degree theft.)

"The Board received notification from the Department of Justice indicating that you were convicted of the following violations that you failed to disclose:

- October 30, 1997 – Disorderly Conduct
- August 10, 1999 – Harassment in the Third Degree


"Documents from the District Court for Cerro Gordo County substantiate the convictions ..."

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Denying Jeffery Edward Havig's Registered Nurse License Application; and
2. Taking such other and further action as deemed necessary and proper.

DATED: July 6, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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51082585.doc



Exhibit B

Letter of Public Reproval



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

Board of Registered Nursing
P O Box 944210, Sacramento, CA 94244-2100
P (916) 322-3350 | www.rn.ca.gov
Louise R. Bailey, M.ED., RN, Executive Officer



February 2, 2013

Jeffery Edward Havig
1134 W. 8th Street
San Bernardino, CA 92411

RE: LETTER OF PUBLIC REPROVAL
In the Matter of the Statement of Issues Against:
Jeffery Edward Havig, Applicant for Registered Nurse License
Board of Registered Nursing Case No. 2010-259

Dear Mr. Havig:

On July 24, 2012, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed Statement of Issues No. 2013-17 against your Application for Registered Nurse License, alleging unprofessional conduct under Business and Professions Code sections 480, subdivision (a)(3), 2736 and 2761, subdivision (a)(4), in conjunction with California Code of Regulations, title 16, section 1444, because you were previously disciplined by another state agency, to wit: the Board of Vocational Nursing and Psychiatric Technicians.

The circumstances surrounding that previous discipline by another state agency were as follows: On or about April 6, 2009, the Board of Vocational Nursing and Psychiatric Technicians issued administrative Citation No. 09-0065-L to you, with a \$250.00 fine. On or about April 15, 2009, you complied with the citation and it is now final. The citation alleged violations of section 2878(e) [misstatement on license application], and states, in pertinent part:

“When applying for licensure as a vocational nurse, you signed a completed Record of Conviction form, responding ‘yes’ to the question “have you ever been “convicted” of any offense, including traffic violations?” You attested to the accuracy and truthfulness of this information, signing the document under penalty of perjury... (Though you did report some of your previous convictions). The Board received notification from the Department of Justice indicating that you were convicted of the following violations that you failed to disclose:

- October 30, 1997 – Disorderly Conduct
- August 10, 1999 Harassment in the Third Degree

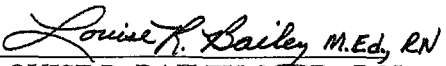
“Documents from the District Court for Cerro Gordo County substantiate the convictions...”

Taking into consideration that you have been licensed by the Board of Vocational Nursing and Psychiatric Technicians since 2009 without any disciplinary action or subsequent complaints other than the above in regard to that license; that the conduct in question as referenced above took place more than three (3) years ago; that your most recent criminal conviction occurred more than twelve (12) years ago; that you have demonstrated honesty and integrity in connection with the investigation of this case; that your reviews have met and/or exceeded standards of performance on the job as a Licensed Vocational Nurse; that you have presented strong letters of support from your supervisors and physicians; and that no harm from your conduct in the previous disciplinary case by

another state agency, the mitigating circumstances in this case support the determination that you are safe to practice as a Registered Nurse, the Board has decided that the charges warrant a public reproof.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproof.

Sincerely,


LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California